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Section III:
AMENDMENT UNDER 37 CFR §1.121 to the
DRAWINGS

No amendments or changes to the Drawings are proposed.

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Section IV:
AMENDMENT UNDER 37 CFR §1.121
REMARKS

Rejections under 35 U.S.C. §102(a)

In the Office Action, claims 1 - 3, 5 - 7, and 9 - 11 were rejected under 35 U.S.C. §102(a) for lack of novelty as being anticipated by U.S. Patent Number 6,587,835 to Treyz (hereinafter "Treyz").

Independent claims 1, 5 and 9 have been amended to incorporate steps, elements, and limitations regarding the specifics of the playing of background sounds, as previously claimed in dependent claims 4, 8, and 12. As stated in the Office Action, Treyz fails to teach these elements as a single reference.

For these reasons, applicant requests withdrawal of the rejections of claims 1 - 3, 5 - 7, and 9 - 11 under 35 U.S.C. §102(a) over Treyz.

Rejections under 35 U.S.C. §103

In the Office Action, claims 4, 8 and 12 were rejected under 35 U.S.C. §103 as being unpatentable over Treyz in view of US Patent Number 6,388,688 to Schileru-Key (hereinafter "Schileru-Key"). Claim 4 is dependent in claim 1, claim 8 is dependent on claim 5, and claim 12 is dependent on claim 9.

The present amendment moves the general steps, elements and limitations of playing background sounds from these dependent claims into Claims 1, 5, and 9, and presents a Markush group of background sound options of background announcement, background music, mall background open space sounds, and mall hallway background noises. Per our disclosure, by "background sounds", applicant means the types of sounds and noises heard by a visitor to a real shopping mall, which are position dependent, but are not directly user-selectable. For example, a user enters the hallway of a large mall, where, at that position, the user will be subject to ambient noise, such as muffled voices, echoes, low volume music, or announcements intended for general consumption by all persons in the mall hallway. As the user "moves" through our virtual mall, the background sounds are updated relevantly with respect to the position of the user. As background sounds, they are not directly selectable by the user, such as an audio clip presented

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responsive to clicking on a specific item for sale. Instead, the background sounds are part of the overall environmental ambiance created and presented by the merchants and proprietors of the mall and stores.

Treyz fails to teach such audio objects, as stated in the Office Action. Schileru-Key teaches well-known audio cards in a computer, but is silent as to teaching or suggestion such position-dependent, user-non-selectable (e.g. "according exclusively to said customer position or updated position") background audio. Instead, Schileru-Key teaches of audio objects which are played responsive to the user selecting their "hot spots" (see col. 4 lines 1 - 4, 26 - 28; col. 5 lines 3 - 6, 29 - 30; and col. 9 line 58 - col. 10 line 8).

The entirety of the Schileru-Key disclosure is silent regarding types of audio clips relating to background announcements, background music, mall open space sounds, and mall hallway noises. While these sounds are an integral part of the overall ambience produced by retailers in the real "bricks-and-mortar" world, our invention uniquely provides this type of sensory experience in a virtual shopping mall.

For these reasons, applicant requests allowance of all claims as amended.

Respectfully,

/ Robert Frantz /

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